

Attorney Docket No.: 2097-024

PATENT APPLICATION



IN THE
UNITED STATES
PATENT AND TRADEMARK OFFICE

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| In Re U.S. Patent Application |) |
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| Applicant: Horowitz et al. |) |
| |) |
| Serial No.: 09/288,757 |) |
| |) |
| Filed: April 8, 1999 |) |
| |) |
| For: DENTAL INSURANCE |) |
| ELIGIBILITY |) |
| DETERMINATION AND |) |
| UTILIZATION |) |
| RECORDATION |) |
| SYSTEM |) |
| |) |
| Examiner: Samuel G. Rimell |) |
| Art Unit: 2175 |) |

DECLARATION OF DR. FRED L. HOROWITZ

DECLARATION

I, DR. FRED L. HOROWITZ, hereby declare and make the following statements in support of the above-referenced application.

1. I am the founder of Applicant Affiliated Network Services, LLC ("ANS") and have served as its President and Chief Executive Officer since 1997. I am responsible for all aspects of the business of ANS. My responsibilities at ANS have consistently brought me into direct contact with ANS' clients, potential clients, competitors and many others in the industry.

2. ANS is a healthcare benefits service and technology company based in Chicago which owns and uses the Patient Eligibility and Verification System which is the subject of Application Serial No. 09/288,757 entitled Dental Insurance Eligibility Determination and Utilization Recordation System ("the Invention") to conduct its business. ANS currently uses the Invention to serve a number of carrier clients including Anthem, Inc. (Blue Cross & Blue Shield Companies of Indiana, Ohio, Kentucky, Connecticut, Nevada, Maine and Virginia), Dental Care Plus, Inc. of Ohio and Doral Dental USA of Wisconsin (and other states). Approximately 5,000 providers are registered to use one or more of the service components of the Invention nationwide.

3. Before founding ANS, I had significant involvement with the National Association of Dental Plans ("NADP"). In addition to my corporate roles, I have also been very active in the dental benefits industry in addition to chairing or serving on numerous state and national dental benefits-related committees and association boards.

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At all times since ANS was founded I have always made a conscious effort, to the extent possible, to learn about and be aware of the capabilities of the systems used by competitors of ANS.

4. I am one of the co-inventors of the system which is the subject matter of Application Serial No. 09/288,757 ("the '757 application"). I am completely familiar with the invention in '757 application. I make this Declaration on personal knowledge and belief and in support of ANS' claim that the subject matter of the '757 application is patentable.

5. ANS provides its services pursuant to the Invention to such providers as: Doral Dental USA of Missouri, Maryland, Illinois, Virginia, and DC; Dental Care Plus of Ohio; Consumer Dental Care Inc. of Maryland; Atlantic Dental, Inc. of Florida; Anthem, Inc. (Blue Cross & Blue Shield) of Indiana, Colorado and Ohio; Dominion Dental Services of Virginia and TDN of Maryland. Since 2000, ANS has provided these services to approximately 5,000 healthcare providers.

6. ANS advertises and promotes its services employing the Invention by way of advertising in professional dental journals, insurance industry publications, display booths at local and national industry meetings, Internet website and brochures. No major expenditures are made in general, national publications, television or radio advertising.

ANNEX 7. Applicant's current annual market expenditures for advertising and promoting the services corresponding to the Invention which is the subject matter of the '757 application are approximately \$100,000.00 (One Hundred Thousand Dollars).

8. Since April of 1999, the system of the '757 application has enabled ANS

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to become successful in the marketplace. Though revenues came very slowly in the early years, ANS revenues for services corresponding to the Invention which is the subject of the '757 application amount to approximately \$700,000.00 (Seven Hundred Thousand
NOT ANS/AL Dollars). However, ~~I do not believe that it is the ANS advertising efforts that have~~
resulted in the success of ANS.

9. I believe that the success of ANS is due to the following attributes of the Invention which is the subject of the '757 application:

- Providing a real-time, two-way, on demand request for the current status of a member or subscriber ("Patient") in such a way that the information request is sent and an immediate timely response is displayed so that:
- Patient Eligibility is provided regardless of whether: that Patient is assigned to that provider; the provider is a primary care provider or specialist; the provider is inside or outside of the provider network;
- Patients can then "drop in" on new providers and still have Eligibility Information accessed in Real Time;
- Provider receives only the information it requested and needs about the Patients;
- Access is provided to the Eligibility information of multiple carriers;
- Real Time Eligibility requests and responses are provided *prior* to performing a procedure; and
- Access is provided from any location, and is machine independent, since any PC with Internet access may be used without the need to download any software;

- Data that is accurate as of the time that the request is made is provided; and,
- The ability to file a claim electronically in Real Time is provided.
- Providing such member and benefit verification and claim submission information in Real Time by using an architecture wherein a live query to the ANS system by the Provider is responded to in Real Time via multiple databases containing the Patient information of multiple carriers and providing the requested information regarding the Patient.

10. At the time of the Invention in 1998, because of the ANS system which is the subject matter of the '757 patent application, ANS was a "pioneer" in the healthcare benefits service and technology industry in the sense that to my knowledge, no other competitor could provide such eligibility verification and claim submission information in Real Time and to my knowledge, no one other than ANS was using the above-described architecture.

11. Over the years, the ANS system which is the subject of the '757 patent application has generated great interest in the system and has received favorable recognition including: recognition in a number of articles by others; being featured on the Fujitsu website in September of 1999; inclusion in a mini-movie by Fujitsu and a mention at a Microsoft convention in September of 1999.

12. Based upon the foregoing, among other evidence, I submit that the claimed subject matter of the '757 patent application was not obvious at the time of the invention and should be patented.

13. I declare further that all statements made herein of my knowledge are true; that all statements made herein on information and belief are believed to be true; and

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further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this application or document and any registration resulting therefrom.

Dated: August 30, 2002

By: 

Dr. Fred L. Horowitz
President and Chief Executive Officer
Affiliated Network Services, LLC